

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

RICHARD COLUNGA

§

V.

§

CIVIL ACTION NO. 9:05CV100

BRAD LIVINGSTON, ET AL.

§

ORDER OF DISMISSAL

Came on for consideration the above-referenced civil action, this Court having heretofore ordered that this matter be referred to the United States Magistrate Judge for proper consideration. Having received the Report of the United States Magistrate Judge pursuant to its order, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore,

ORDERED that the above-styled case shall be and is hereby **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted. The dismissal of this lawsuit is **WITHOUT PREJUDICE** to, and shall have no effect upon, Plaintiff's right to challenge the legality of his confinement through any lawful means, including but not limited to state and federal applications for the writ of habeas corpus.

All motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **18** day of **October, 2005**.



Ron Clark, United States District Judge